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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]

DECISION

FOO/143491

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 29, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Walworth County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 10, 2012, at Elkhorn, Wisconsin.

The record was held open until October 16, 2012, to give Walworth County Department of Human Services (the agency) an opportunity to submit copies of the FoodShare budget print out for September 2012. On October 11, 2012, the agency submitted budget printouts for October 2012. In addition, the agency also submitted a notice dated October 2, 2012, indicating that [REDACTED] SLMB benefits for September 2012 were restored, pending the outcome of the fair hearing request. The documents have been marked collectively as Exhibit 7.

The record was also held open to give Petitioner an opportunity to submit bank records and a statement from the Department of Veterans Affairs indicating that it was withholding \$250 per month for child support, from Petitioner's monthly check. The documents were received on October 11, 2012 and have been marked collectively as Exhibit 8.

The issue for determination is whether the agency correctly determined Petitioner's FoodShare benefits to be \$16 per month effective September 1, 2012.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Sandy Cross

Walworth County Department of Human Services  
W4051 County Rd NN

Elkhorn, WI 53121-1006

ADMINISTRATIVE LAW JUDGE:  
 Mayumi M. Ishii  
 Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County.
2. On August 24, 2012, the agency sent Petitioner a notice indicating that his FoodShare benefits would be \$16.00 per month effective September 1, 2012. (Exhibit 6, pg. 13)
3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 29, 2012. (Exhibit 1)
4. At the time in question, Petitioner's sole source of income was from a pension from the Department of Veteran's Affairs, in the amount of \$1337.00 per month. This has been so, since December 1, 2011. (Exhibit 6, pg. 4; Petitioner's testimony)
5. Petitioner paid and continues to pay child support in the amount of \$173.00 per month. (Exhibit 6, pg. 2; Petitioner's testimony)
6. Petitioner's pays rent in the amount of \$382.00 per month (Exhibit 7, pg. 3; Petitioner's testimony)
7. Petitioner's only reported medical expenses were \$7.82 paid to Walgreens. (Exhibit 6, pg. 2)
8. Petitioner is the only person in his assistance group and his household qualifies as an elderly, blind or disabled household. (Petitioner's testimony)

### **DISCUSSION**

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FSH § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH §4.1.1.*

Once a household passes the gross income test the following deductions are applied ( *FSH, at § 4.6*):

- (1) a standard deduction –

This was is \$147 per month for a household of 1 during the time in question, but effective October 1, 2012, was changed to \$149 per month, *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

During the time in question, the heating standard utility allowance (HSUA) was \$444, but Effective October 1, 2012, it was changed to \$442 per month.

During the time in question there was a cap of \$459.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member. Effective October 1, 2012, it was changed for \$469 per month.

*FSH, §§ 4.6.7.1 and 8.1.3.*

The term 'disabled' is a term with a definition as to the FoodShare program:

### **3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

Applying the foregoing to Petitioner we have the following net income calculation, effective September 1, 2012:

Gross Income	\$1337.00	Rent	\$382.00
No Earned Income Deduction		HSU	\$444.00
Standard Deduction	-\$147.00	50% Net income	-\$508.50
No Medical Expenses exceeding \$35			
Child Support	-\$173.00	Excess Shelter Expense	\$317.50
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Net Income	\$1017.00		
Excess Shelter Expense	-\$317.50		
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Net Income	\$699.50		

Individuals, in a household of one, with a net income of \$699.50 qualify for a FoodShare allotment of \$16.00 per month. *FSH §8.1.2.*

It should be noted that effective November 1, 2012, Petitioner will be having \$250 per month deducted from his pension income for the purposes of child support. It is unclear from the record whether the \$250 is in addition to, or instead of the \$173.00 in child support that Petitioner currently pays per month. The agency will have to re-determine Petitioner's income to see if and how the change in Petitioner's child support obligations affects Petitioner's FoodShare benefits.

If Petitioner disagrees with the agency's determination of his FoodShare benefits, effective November 1, 2012, he must file a NEW appeal.

**CONCLUSIONS OF LAW**

The agency correctly determined Petitioner's FoodShare allotment to be \$16.00 per month, effective September 1, 2012.

**THEREFORE, it is**

**ORDERED**

That the Petition is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

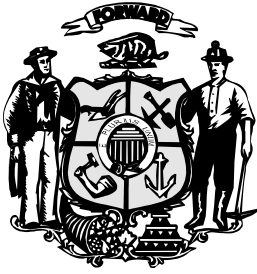
The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 12th day of October, 2012

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Mayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability , DHSDHADHCAA@Wisconsin.gov  
HSDS.Department@co.washington.wi.us, HSDS.Department@co.washington.wi.us - Walworth County



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The preceding decision was sent to the following parties on October 12, 2012.

Walworth County Department of Human Services  
Division of Health Care Access and Accountability